

17-35b-303 Community council form of county government.

- (1) The structural form of county government known as the "community council" form unites in a single consolidated city and county government the powers, duties, and functions which, immediately prior to its effective date, are vested in the county, the largest city in the county, such other cities and towns as elect to merge in it, and all special taxing districts, public authorities, service areas, and other local public entities functioning within the boundaries of the county, except school districts. The consolidated government shall have power to extend on a countywide basis any governmental service or function which is authorized by law or which the previous county, cities, and other local public agencies included therein were empowered to provide for their residents, but no such service shall be provided within an incorporated municipality which continues to provide that service for its own inhabitants, except upon a contract basis for the municipality, and no taxes, assessments, fees, or other charges shall be extended or collected within the municipality for the purpose of financing any service which is not provided by the consolidated government within the municipality. "Largest city," as used in this section, means a city or cities the population of which, as shown by the most recent decennial or special census, exceeds 35% of the total county population.
- (2) The incorporated cities and towns, other than the largest city, in the county shall retain independent corporate existence and shall continue to provide local services to their inhabitants of the type and to the extent provided in the plan, but any such city or town, by majority vote of its qualified voters, cast either concurrently with the election at which the plan is approved or subsequently to it, as provided by the governing body of the city or town, may cause the city or town to be dissolved and its powers, duties, and functions vested in the countywide government.
- (3) The county legislative body of the countywide government shall be a council composed of not less than five persons as specified in the plan, elected respectively from communities, which collectively include all of the territory within the county, having boundaries described in the plan embracing substantially equal populations. In addition to other powers vested in the countywide government by law or pursuant to this act, the county council shall have all of the legislative and policymaking powers which it is possible for the governing body of a county or a city to possess and which are not expressly denied by the constitution, by a general law applicable to all cities or all counties, or by a specific restriction in the plan itself.
- (4) The voters of each community shall elect a community council composed of the community's elected member of the county council, who shall be chairman of the community council, and not less than two nor more than four additional members elected either from districts of substantially equal population within the community, or at large therein, as may be provided in the plan. A community council shall have the power and duty, in conformity with guidelines prescribed by the county council, to adopt policies and formulate specific programs relating to and defining the kinds and levels of local governmental services necessary to satisfy the needs and desires of the citizens within the community, but a community council shall have no power to engage personnel or to acquire facilities, property, or equipment for the administration or performance of such services. Authorized programs for local governmental services which have been approved by a community council shall be submitted to the county council for implementation and shall be carried into effect by the county council and county executive unless, by a vote of not less than 3/4 of its entire membership, the county council determines that a particular program, in whole or in part, should be rejected as contrary to the general welfare of the county. A community council program for local governmental services within a community:
 - (a) shall include a method or methods for financing such services;

- (b) may provide for supplying of such services by contract or by joint or cooperative action pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, in which case the community council shall be considered a "public agency" within the meaning of said act; and
 - (c) may provide for supplying of such services through the creation of service areas pursuant to Title 17B, Chapter 2a, Part 9, Service Area Act.
- (5) Notwithstanding Subsection (4), in any community which includes, in whole or in part, the territory of a city or town, no community council program for local government services above the minimum level of area-wide services provided countywide may be submitted to the county council for implementation unless it first is submitted to the governing body of each such city or town for review. Within 30 days after such submission, the governing body of the city or town:
- (a) may file with the community council a written statement of its comments, suggestions, and recommendations relating to the program, and the community council shall give due consideration thereto; or
 - (b) may, by resolution or ordinance, provide that any designated part of the community council program relating to a service to be provided within the city or town shall be submitted to the voters thereof at a general or special election to be held therein within 60 days after the date of the resolution or ordinance. Any part of the program submitted to the voters of a city or town under this Subsection (5) may not be included in the program as submitted to the county council unless it receives an approving vote at such election by majority of all votes cast on the question.
- (6) Except as provided herein, the qualifications, mode of election, term of office, method of removal, procedure to fill vacancies, compensation, and other appropriate provisions relating to membership on the county council or community councils shall be provided in the plan.
- (7) Upon the effective date of the plan and as provided in it, all properties and assets, whether tangible or intangible, and all obligations, debts, and liabilities, of those governmental entities which are merged into the new countywide government shall become vested and transferred by operation of law in and to the new countywide government. The properties, assets, obligations, debts, and liabilities of any city or town not merged into the new countywide government, so far as allocated, used, or incurred primarily to discharge a function which under the plan will no longer be a responsibility of the city or town, shall likewise be vested in and transferred to the new countywide government. All transfers under this Subsection (7) shall be subject to equitable adjustments, conditions, and limitations provided in the plan and determined by procedures specified in the plan, but the contractual rights of any bondholder or creditor may not be impaired.
- (8) Upon the effective date of the plan and as provided in it, nonelective officers and employees of governmental entities which are merged into the new countywide government and such officers and employees of nonmerged cities or towns whose qualifications and duties relate primarily to functions which under the plan will no longer be a responsibility of those cities or towns, shall be blanketed in and transferred to the new countywide government as officers and employees of it. Standards and procedures relating to such personnel transfers, and for resolving disputes or grievances relating thereto, shall be provided in the plan.

Amended by Chapter 297, 2011 General Session